IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5504 OF 2006

Ajay Yeshwant Paranjape ..Petitioner

Vs.

Smt.Nalini Achyut Patwardhan ..Respondent

Mr.S.S.Kanetkar for the petitioner

Mr.V.G.Mujumdar for the respondent

CORAM : A.P.DESHPANDE, J

DATED : 15TH DECEMBER, 2006

P.C.:

1. By the present writ petition, the petitioner is challenging an order passed by the trial court dt.26.6.06 whereby the court found that as the plaintiff has not submitted examination in chief on affidavit under XVIII of C.P.C., he cannot make an application for cross-examination of the witness by appointing a Court Commissioner.

2. No fault can be found with the order passed by the trial court. However, the learned counsel

for the petitioner submits that he will place on record of the trial court, examination in chief on affidavit of the witness concerned and then move an appropriate application for appointment of Commissioner to seek the cross-examination of the witness by use of an electronic media.

3. The trial court's order, holding the application moved by the petitioner as premature is sustained. However, the petitioner is granted permission to place on record of the trial court, examination in chief of the witness on affidavit and then make an appropriate application, which the trial court shall decide in accordance with law. Writ Petition is disposed of accordingly.

(SHRI A.P.DESHPANDE, J)